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FISCAL IMPACT STATEMENT

LS 6548 **NOTE PREPARED:** Feb 29, 2012
BILL NUMBER: SB 302 **BILL AMENDED:** Feb 29, 2012

SUBJECT: Technology equipment property tax exemption.

FIRST AUTHOR: Sen. Charbonneau **BILL STATUS:** 2nd Reading - 2nd House
FIRST SPONSOR: Rep. Clere

FUNDS AFFECTED: **GENERAL** **IMPACT:** Local
DEDICATED
FEDERAL

Summary of Legislation: (Amended) *Information Technology*: This bill provides that the property tax exemption for qualified enterprise information technology equipment applies only to property located in a high technology district area designated by the fiscal body of the county or municipality. It specifies the procedure for the designation of such an area.

The bill provides that an entity that leases qualified property for use in a facility or data center dedicated to computing, networking, or data storage activities is also eligible for the exemption. (Current law provides that only a business that operates such a facility is eligible for the exemption.) The bill also requires that at least $10,000,000 must be invested in the facility or data center after June 30, 2012, by the entity entering into the agreement for the exemption and by the lessor of the qualified property (if the business is a lessee) and all lessees of qualified property.

Recognition of Federal Income Deduction: This bill eliminates the requirement to add back amounts deducted for federal income tax purposes as expenses of elementary and secondary school teachers for taxable years beginning after December 31, 2011.

Maximum Permissible Rates - Rate Controlled Funds: The bill changes the formulas for calculating the maximum tax rates for cumulative funds and school corporation capital projects funds. It also changes the due date for the first installment of 2012 property taxes to June 10.

This bill also authorizes a political subdivision to petition the Department of Local Government Finance (DLGF) to increase the tax rate for its capital projects fund for taxes payable in 2013 if the political subdivision's assessed valuation and maximum tax rate decreased for taxes payable in 2012.

Effective Date: (Amended) Upon Passage; January 1, 2011 (Retroactive); January 1, 2012 (Retroactive); July 1, 2012.

Explanation of State Expenditures: (Revised) *Maximum Permissible Rates - Rate Controlled Funds:* The DLGF has certified 2012 property tax rates in 50 counties to date. Since this provision would be effective with property taxes payable in 2012, the DLGF would have to recalculate and recertify tax rates in some or all the 50 counties. Additionally, the DLGF would have to make the necessary changes to the tax rates for the remainder of the counties that are currently in process.

Explanation of State Revenues: (Revised) *Recognition of Federal Income Deduction:* The bill provides that the federal above-the-line income deduction of up $250 for classroom expenses incurred by an elementary or secondary school teacher that was not conformed to under the Internal Revenue Code Update legislation enacted in 2011 would apply for purposes of Indiana income tax for taxable years beginning after December 31, 2011.

Under current federal law, the teacher classroom expense deduction expired on December 31, 2011. Consequently, the bill would not result in a revenue loss unless federal legislation is enacted to extend the deduction beyond tax year 2011. It is estimated that the annual revenue loss could potentially total $500,000 to $550,000 if the federal legislation is enacted to extend the deduction.

Explanation of Local Expenditures: (Revised) *Maximum Permissible Rates - Rate Controlled Funds:* This provision would extend the spring, 2012, property tax payment date by one month from May 10, 2012 to June 10, 2012. Interest expenses could increase for some taxing units that might have to borrow money in anticipation of property tax distributions.

Explanation of Local Revenues: *Information Technology*: Under current law, a county or municipal fiscal body may, before January 1, 2017, grant a property tax exemption for enterprise information technology equipment owned by an eligible business. The term of the exemption may extend beyond 2017 in accordance with the required agreement between the designating body and eligible business.

Under this proposal, the designating body would first have to declare that all or a part of the body's jurisdiction is a "high technology district area" (HTDA) before January 1, 2017. The designating body could enter into exemption agreements at any time after the HTDA designation is made.

Current law defines an eligible business as an entity that meets the following requirements:

(1) the entity is engaged in a business that operates one or more facilities dedicated to computing, networking, or data storage activities;
(2) the entity is located in a facility or data center in Indiana;
(3) the entity invests in the aggregate at least $10 M in personal property and real property in Indiana after June 30, 2009; and
(4) the average employee wage of the entity is at least 125% of the county average wage for each county in which the entity conducts business operations.

Under this bill, the focus would be on total investment of at least $10 M at a single facility or data center, including both property owned by the entity and leased property. The $10 M investment would have to be made after June 30, 2012 rather than after June 30, 2009. The 125% wage threshold would apply to all employees engaged in the operation of the particular facility or data center.

Under this bill, additions to, and replacement of, the original equipment would also qualify as enterprise information technology equipment.

This bill could expand the number of entities that could eventually qualify for enterprise information technology equipment exemptions. It would also indefinitely expand the time in which exemption agreements may be entered into so long as an HTDA designation is made before January 1, 2017. The granting of any exemption under this bill would be a local decision.

The exemption of newly acquired property would not affect the existing tax base. If there is an increase in development because of the exemption, then other property could be added to the tax base. If the exemption period set locally is shorter than the life of the property, then the value of the enterprise information technology equipment could eventually be added to the tax base. However, if one assumes that the investment would be made with or without the exemption, then the granting of the exemption under this bill could, during the exemption period, eliminate the normal shift of the property tax burden from all taxpayers to the owners of the new property that would have otherwise occurred.

(Revised) *Recognition of Federal Income Deduction*: Conformance to the federal above-the-line income deduction of up $250 for classroom expenses incurred by an elementary or secondary school teacher would <u>not</u> result in a revenue loss unless federal legislation is enacted to extend the deduction beyond tax year 2011. (See Explanation of State Revenues.)

(Revised) *Maximum Permissible Rates - Rate Controlled Funds:* Under current law, the maximum tax rate for a rate- controlled fund, such as a cumulative fund, is adjusted each year to negate the effects of assessed value (AV) increases due to general reassessments or annual adjustments. When AV increases for these reasons, the rate is reduced so that the rate will produce the same tax amount on the same property. Sometimes, however, the current formula produces a reduced rate when AV is declining.

Beginning with taxes payable in CY 2012, the calculation would be changed so that there would be no change in the tax rate when AV declines. In the case of a unit with declining AV, this provision would result in an increase in property tax levies for rate-controlled funds as compared to current law. However, the levies would not be any higher than, and would probably still be lower than, the 2011 levies for these funds.

The DLGF has certified 2012 property tax rates in 50 counties to date. According to the DLGF, taxing units in these 50 counties will lose a total of approximately $12 M under current law in 2012 because of the lower tax rates produced by the current formula. Under this provision, a portion of theses levies, beginning in 2012 would be restored. The full statewide impact is not yet known.

This bill would also permit a taxing unit to appeal to the DLGF for a temporary increase in the 2013 capital projects fund (CPF) tax rate if both the unit's assessed value for taxes payable in 2012 and the 2012 CPF tax rate declined. Since the 2012 tax rates would be recalculated under this bill, there should be no temporary increase in 2013 CPF tax rates.

<u>State Agencies Affected:</u> Department of Local Government Finance.

Local Agencies Affected: County and municipal fiscal bodies; County auditors.

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